

SENATE BILL 3937

By McNally

AN ACT to amend Tennessee Code Annotated, Title 63,
relative to standards for dispensing prescriptions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. It is the intent of the general assembly to provide standards for the centralized dispensing or refilling of prescriptions from a central location, by and among commonly-owned pharmacies or affiliated pharmacies, provided that the pharmacies at issue share a common database that allows each pharmacy access to sufficient information necessary or required to dispense or process a prescription drug or legend device order. By adopting these standards, the general assembly intends to permit pharmacies to utilize the latest technology in dispensing and refilling prescriptions and ensuring greater patient safety and care, thus improving the health and welfare of the citizens of Tennessee.

SECTION 2. Tennessee Code Annotated, Section 63-10-204, , is amended by adding the following language as a new, appropriately designated subsection:

() "Common Database" means a database or electronic file shared by two (2) or more pharmacies that allows each pharmacy access to sufficient information necessary or required to dispense or process a drug or device prescription order.

SECTION 3. Tennessee Code Annotated, Title 63, Chapter 10, Part 2, is amended by adding the following as a new, appropriately designated section:

§ 63-10-214.

(a) The purpose of this section is to provide standards for centralized drug and device prescription dispensing by pharmacies.

(b) The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise. Any term not defined in this section shall have the definition set forth in § 63-10-204.

(1) "Act" means the Tennessee Pharmacy Practice Act of 1996, as amended;

(2) "Centralized prescription dispensing" means the dispensing or refilling of a prescription drug or device order by a licensed pharmacy at the request of another licensed pharmacy and the return of the dispensed prescriptions to the requesting pharmacy for delivery to the patient or patient's agent, or at the request of the requesting pharmacy, direct delivery to the patient or patient's agent. The term also includes those tasks performed by pharmacists in the practice of pharmacy.

(c)

(1)

(A) A pharmacy may engage another pharmacy to dispense prescriptions on its behalf, the act of which would not constitute a transfer of medical or prescription orders as set forth in the rules of the Tennessee board of pharmacy, provided all of the following conditions are present:

(i) The participating pharmacies have the same owner or entered into a written contract or agreement that outlines the services to be provided and the responsibilities and accountabilities of each pharmacy in compliance with federal and state laws and regulations;

(ii) The participating pharmacies share a common database or have appropriate technology to allow access to

sufficient information necessary or required to dispense a prescription drug order;

(iii) The prescription information is maintained within such database;

(iv) The Common Database maintains a record of all persons involved, in any manner, in the dispensing of the prescription;

(v) All participating pharmacies are properly licensed in their state of residence;

(vi) All participating pharmacies residing in another state shall be properly registered or permitted as a pharmacy in Tennessee; and

(vii) All participating pharmacists are responsible for the actual tasks performed in the dispensing of the prescription.

(B) The pharmacist in charge of the dispensing pharmacy shall ensure that::

(i) The pharmacy maintains and uses processes to ensure drug stability and integrity in accordance with manufacturer requirements for the drugs. Shipping processes shall include the use of appropriate packaging material or devices to ensure that the drug is within appropriate temperature range; and

(ii) The dispensed prescriptions are shipped in containers that are sealed in such a manner as to show evidence of opening or tampering.

(2)

(A) A pharmacy shall, if the prescription is delivered directly to the patient or patient's agent by the dispensing pharmacy and not returned to the requesting pharmacy, place on the prescription container or on a separate sheet delivered with the prescription container, the toll-free telephone number of the dispensing pharmacy and the following statement:

WRITTEN INFORMATION ABOUT THIS PRESCRIPTION HAS BEEN PROVIDED FOR YOU. PLEASE READ THIS INFORMATION BEFORE YOU TAKE THE MEDICATION. IF YOU HAVE QUESTIONS CONCERNING THIS PRESCRIPTION, A PHARMACIST IS AVAILABLE TWENTY-FOUR (24) HOURS A DAY TO ANSWER THOSE QUESTIONS AT (insert the dispensing pharmacy's toll-free telephone number).

(B) The provisions of this paragraph do not apply to prescriptions delivered to patients in facilities where drugs are administered to patients by a person required to do so by the laws of Tennessee (i.e., hospitals or nursing homes).

(3) The dispensing pharmacy shall:

(A) Indicate in some manner the pharmacy that dispensed the prescription (e.g., "Filled by ABC Pharmacy for XYZ Pharmacy"); and

(B) Comply with all other applicable labeling requirements.

(d)

(1) Records may be maintained in an alternative data retention system, such as a data processing system or direct imaging system provided that:

(A) The records maintained in the alternative system contain all of the information required on the paper record; and

(B) The data processing system is capable of producing a hard copy of the record upon the request of the board, its representative, or other authorized local, state, or federal law enforcement or regulatory agencies.

(2) Each pharmacy shall comply with all the laws and rules relating to the maintenance of records and be able to produce an audit trail showing all prescriptions dispensed by the pharmacy.

(3) The requesting pharmacy shall maintain records that indicate the date that:

(A) The request for dispensing was transmitted to the dispensing pharmacy; and

(B) The dispensed prescription was received by the requesting pharmacy, including the method of delivery (e.g., private, common or contract carrier) and the name of the person accepting delivery at the requesting pharmacy.

(4) The dispensing pharmacy shall maintain records that indicate the following:

(A) The date the prescription was shipped to the requesting pharmacy, patient or patient's agent;

(B) The name and address of the location to where the prescription was shipped; and

(C) The method of delivery (e.g., private, common or contract carrier).

SECTION 4. Nothing in this act shall be construed as limiting any authorized prescriber's or pharmacist's ability to order the use of or distribute non-prescription drugs or devices otherwise in accordance with applicable law.

SECTION 5. The department of health, division of health related boards and the board of pharmacy, are authorized to promulgate uniform rules to effect the purposes of this act in accordance with Tennessee Code Annotated, Title 4, Chapter 5. The power and duty to enforce those rules shall be vested in the various boards that regulate health care providers affected by this act, in accordance with Tennessee Code Annotated, § 63-1-122.

SECTION 6. This act shall not affect rights and duties that matured, penalties that were incurred, or proceedings that were begun before its effective date.

SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 8. For purposes of issuing rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2008, the public welfare requiring it.